

Appl. No. 10/755,385
Amendment dated: May 2, 2005
Reply to OA of: February 2, 2005

REMARKS

Applicants have amended the drawings and claims to more particularly define the invention taking into consideration the outstanding Official Action. The drawing of Figure 3 has been amended to show the reference number 60 as required by the Examiner in the Official Action. This amendment does not introduce new matter but serves to clarify the drawing as required by the Examiner. The drawing is found at the end of this paper and marked "Replacement Sheet" as required in the rules. Accordingly, entry of the corrected drawing is in order and the objection to the drawing should be withdrawn.

Claim 6 has been amended to delete a mark after the period which is simply a typographical error. Applicants most respectfully submit that all the claims now present in the application are in full compliance with 35 U.S.C. §112 and are clearly patentable over the references of record.

The rejection of claims 1-6 under 35 U.S.C. §102(b) as being anticipated by Liao has been carefully considered but is most respectfully traversed.

Applicant wishes to direct the Examiner's attention to MPEP § 2131 which states that to anticipate a claim, the reference must teach every element of the claim.

"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). "The identical invention must be shown in as complete detail as is contained in the ... claim." *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). The elements must be arranged as required by the claim, but this is not an *ipsissimis verbis* test, i.e., identity of terminology is not required. *In re Bond*, 910 F.2d 831, 15 USPQ2d 1566 (Fed. Cir. 1990).

Clearly, as would be appreciated by one of ordinary skill in the art to which the invention pertains the elements of the presently claimed are not arranged as in the prior art relied upon in the rejection.

The Liao reference describes a magazine structure for a power stapler and comprising a body for receiving nails and staples therein and having an end board and a stopper board disposed in one of two ends thereof. The stopper board has recessed portions and a slot defined therein which pivotally receives a guide board therein which is biased by two springs and has two transverse holes with pins extending therethrough as to prevent inclined movement when ejecting a nail/staple in the recessed portion. Clearly, the structure described in Liao is to achieve this goal and there is no corresponding arrangement of such a structure in the presently claimed invention. While both Liao and the presently claimed invention have a similar object in the capability of delivering T-shaped nails and U-shaped staples magazine, the manner in achieving these goals is different as reflected in the difference in the structures as would be evident to one of ordinary skill in the art to which the invention pertains.

As stated in the paragraph bridging pages 6 and 7 of Applicant's specification, when T-nails 101 are used and loaded in the nail magazine 100, as shown in Figures 8 and 9, they are immediately forced forward by the longitudinal push face of the vertical plate and nail pusher thereby causing the first T-nail to protrude over the sliding groove 22 of the nail track 20 through the first nail hole and at the same time the lower part of the body 101 of the first T-nail 101 is clamped by the bottom edge 52a and 53a of the front sides of the clamping walls 52 and 53 of the nail clamp 50. There is no corresponding placement of structure in the Liao reference.

At page 7 of Applicant's specification it is noted that when U-nails 102 are used and loaded in the nail magazine 100, as shown in Figure 11, there are immediately forced forward by the inverted disposed U-shaped front push face 611a of the channel plate 611 thereby causing the first U-nail 102 to protrude over the sliding groove of the nail track through the second nail hole 42 and the first U-nail 102 is straightly and rapidly driven into the work piece upon downstroke of firing pin 103.

The guide plate 33 as described in Liao is in no way equivalent structured to the nail clamp 50 in accordance with the presently claimed invention. This is obvious from Figure 7 of the presently claimed invention and the operation of the structure.

In particular, in Liao, the guide plate 33 is located in stopper 30 while in the presently claimed invention it is located in nailing track 20 which is fixedly fastened to the front end of the housing. Thus, the operation and structure are clearly different and not anticipated by Liao. Moreover, there is absolutely no motivation to make the necessary modifications to arrive at the presently claimed invention.

In addition, the presently claimed invention requires a first nail hole upwardly extending from said bottom notch which is clearly and distinctly different from the arrangement required by Liao which shows the staples arranged above T-shaped nails and the corresponding structure therefor.

With respect to the stop block as indicated on page 3 of the Official Action, reference is made to number 30 as also a stop block position in the bottom notch of the nailing track 20 and 30. However, the stopper 30 is not in the guide track which does not correspond to nail track 20 in accordance with the presently claimed invention. Clearly, the presently claimed invention is not anticipated by the prior art as would be appreciated by one of ordinary skill to which the invention pertains.

Applicant further notes the comments in the Official Action concerning the further disclosures which may relate to the dependent claims. However, these disclosures in no way anticipate the structure set forth in the dependent claims which provide in claim 3, for example, the stop block is afixed to a front end of the nail guide which structure is not present in the Liao reference. This is similarly true with respect to the limitations of claims 4, 5 and 6 which further limit the claims which as discussed above are not anticipated by the reference. Accordingly, it is most respectfully requested that this rejection be withdrawn.

Applicant wishes to note that the required priority document to complete the claim for priority was filed on August 5, 2004 as evidenced by the attached copy of the

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stamped receipt card. Accordingly, acknowledgment of receipt of the required certified copy in the next Official Action would be appreciated.

In view of the above comments and further amendments to the claims, favorable reconsideration and allowance of all of the claims now present in the application are most respectfully requested.

Respectfully submitted,

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REF:kdd
A01.wpd

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Amendments to the Drawings:

Please replace the original drawing Figure 3 with the amended drawing Figure 3 which is found at the end of this paper and marked "Replacement Sheet" as required in the rules.